



LAWS OF ALASKA

2005

Source
SCS CSHB 106(FIN)

Chapter No.

AN ACT

Establishing the senior care program and relating to that program; creating a fund for the provision of the senior care program; repealing ch. 3, SLA 2004; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

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2 provision of the senior care program; repealing ch. 3, SLA 2004; and providing for an
3 effective date.

4

5 * **Section 1.** AS 09.38.015 is amended to read:

6 **Sec. 09.38.015. Property exempt without limitation.** (a) An individual is
7 entitled to exemption of the following property:

8 (1) a burial plot for the individual and the individual's family;

9 (2) health aids reasonably necessary to enable the individual or a
10 dependent to work or to sustain health;

11 (3) benefits paid or payable for medical, surgical, or hospital care to
12 the extent they are or will be used to pay for the care;

13 (4) an award under AS 18.67 (Violent Crimes Compensation Board) or
14 a crime victim's reparations act of another jurisdiction;

- (5) benefits paid or payable as a longevity bonus under AS 47.45;
- (6) compensation or benefits paid or payable and exempt under federal law;
- (7) liquor licenses granted under AS 04;
- (8) tuition credit or savings accounts under a higher education savings account established under AS 14.40.802 or an advance college tuition savings contract authorized under AS 14.40.809(a);
- (9) a permanent fund dividend to the extent allowed under AS 43.23.065;

(10) benefits paid or payable as a senior care benefit under AS 47.45.300 - 47.45.390.

* **Sec. 2.** AS 47.45 is amended by adding new sections to read:

Article 3. Senior Care Program.

Sec. 47.45.300. Senior care program. (a) The senior care program is established in the Department of Health and Social Services to provide cash assistance benefits and prescription drug benefits as far as practicable under appropriations provided by law.

(b) The department shall

(1) administer the program; and

(2) adopt regulations under AS 44.62 to carry out the purposes of the program.

(c) If the department estimates that appropriations for the program are insufficient to meet the demands of the program in a fiscal year, the department may reduce or eliminate the benefits available to recipients. Benefits shall be reduced or eliminated in the following order:

- (1) deductible coverage under AS 47.45.320(c);
- (2) premium coverage under AS 47.45.320(c);
- (3) cash assistance under AS 47.45.310(b).

Sec. 47.45.310. Cash assistance benefit. (a) To be eligible for a cash assistance benefit under the program, an individual shall

(1) be 65 years of age or older;

- (2) be a resident of the state;
- (3) have household income that does not exceed
 - (A) \$16,133 a year if the household consists of one person; or
 - (B) \$21,641 a year if the household consists of two people;
- (4) meet other eligibility requirements specified in this subsection and in regulations adopted under this subsection; and
- (5) apply on a form provided by the department; the department may use an abbreviated form for an individual who received a payment under an assistance program for seniors that paid \$120 a month and was administered by the department on or before the effective date of this section.

(b) An eligible individual who meets the income standard of (a)(3) of this section shall receive cash assistance of \$120 a month as far as practicable under appropriations available to the program.

(c) Cash assistance provided under this section is inalienable by assignment or transfer and is exempt from garnishment, levy, or execution as provided in AS 09.38.015.

Sec. 47.45.320. Prescription drug benefit. (a) To be eligible for a prescription drug benefit under the program, an individual

- (1) shall be 65 years of age or older;
- (2) shall be a resident of the state;
- (3) shall have household income that does not exceed
 - (A) \$20,913 a year if the household consists of one person; or
 - (B) \$28,053 a year if the household consists of two people;
- (4) may not be receiving a cash assistance payment under AS 47.45.310;
- (5) shall be enrolled in at least one of the prescription drug programs described in (c) of this section;
- (6) shall meet other eligibility requirements specified in this subsection and in regulations adopted under this subsection; and
- (7) shall apply on a form provided by the department; the department may use an abbreviated form for individuals who received a payment under an

1 assistance program for seniors that paid \$120 a month and was administered by the
2 department on or before the effective date of this section.

3 (b) To receive a prescription drug benefit under this section, an individual

4 (1) may not also receive a similar prescription drug benefit, except for
5 a prescription drug program offered by a facility that operates under the authority of
6 25 U.S.C. 450 - 458bbb-2; and

7 (2) if eligible for a similar prescription drug benefit, shall assign to the
8 department the individual's right to payment of the other prescription drug benefit.

9 (c) The department may pay an eligible individual's premium and deductible
10 for a prescription drug benefit authorized under

11 (1) 42 U.S.C. 1395w-101 - 1395w-152 (Medicare Prescription Drug,
12 Improvement and Modernization Act of 2003), as amended, including

13 (A) a prescription drug plan funded under 42 U.S.C. 1395w-
14 101 - 1395w-152 (Medicare Prescription Drug, Improvement and
15 Modernization Act of 2003), as amended; and

16 (B) a Medicare Advantage plan that provides prescription drug
17 coverage qualified under 42 U.S.C. 1395w-101 - 1395w-152 (Medicare
18 Prescription Drug, Improvement and Modernization Act of 2003), as amended;

19 (2) a group health plan, including the federal employees health benefits
20 program and qualified retiree prescription drug plan as defined in 42 U.S.C. 1395w-
21 132 (sec. 1860D-22(a)(2) of the Social Security Act), as amended;

22 (3) coverage of prescription drugs for veterans, survivors, and
23 dependents under 38 U.S.C. 1701 - 1784, as amended;

24 (4) coverage under a Medicare supplemental policy, such as medigap
25 under 42 U.S.C. 1395ss (sec. 1882 of the Social Security Act), as amended, and as
26 specified in 42 C.F.R. 403.205, that provides a prescription drug benefit regardless of
27 whether the coverage was issued in accordance with the standardization requirement
28 under 42 U.S.C. 1395ss(p)(1) (sec. 1882(p)(1) of the Social Security Act), as
29 amended;

30 (5) military coverage under 10 U.S.C. 1071 - 1110, as amended; or

31 (6) any other private plan that is identified by the department as

1 providing coverage actuarially equivalent to 42 U.S.C. 1395w-101 - 1395w-152
2 (Medicare Prescription Drug, Improvement and Modernization Act of 2003), as
3 amended.

4 (d) If an eligible individual has a prescription drug benefit that is specified in
5 (c) of this section, but that benefit does not require the individual to pay either a
6 premium or a deductible, the department may not pay a prescription drug benefit to the
7 individual under this section.

8 (e) The total prescription drug benefit that an eligible individual may receive
9 under this section in a fiscal year may not exceed the annual premium cost of a plan
10 identified in (c) of this section and any deductible required under 42 U.S.C. 1395w-
11 101 - 1395w-152 (Medicare Prescription Drug, Improvement and Modernization Act
12 of 2003), as amended.

13 (f) The department may not pay a prescription drug benefit under this section
14 to an individual who has a prescription drug benefit authorized under

15 (1) Medicaid under 42 U.S.C. 1396 - 1396v (Title XIX of the Social
16 Security Act), as amended; or

17 (2) a waiver under 42 U.S.C. 1315 (sec. 1115 of the Social Security
18 Act), as amended.

19 (g) An individual residing in a public institution, a nursing facility, the Alaska
20 Pioneers' Home, or the Alaska Veterans' Home is not eligible for a prescription drug
21 benefit under this section. For purposes of this subsection, an individual is not
22 considered to be residing in a public institution or nursing facility if the individual is
23 institutionalized for medical services for a period of less than three months and
24 continues to maintain and provide for the expenses of the individual's home or living
25 arrangement to which that individual may return upon discharge from the institution or
26 facility.

27 **Sec. 47.45.330. Continuation of benefits.** An eligible individual who leaves
28 the state may not receive a cash assistance benefit under AS 47.45.310 or prescription
29 drug benefit under AS 47.45.320 during the absence unless the individual's absence is
30 temporary and is for one of the following reasons:

31 (1) to receive medical treatment for the individual;

(2) to accompany the individual's family member who is receiving medical treatment outside the state; or

(3) for a vacation, business trip, or other absence of less than 30 consecutive days, unless the individual has applied for and received a time extension from the department for special circumstances.

Sec. 47.45.340. Appeal rights. An individual who receives a determination from the department that denies, limits, or modifies a cash assistance benefit or prescription drug benefit under AS 47.45.300 - 47.45.390, other than a determination under AS 47.45.300(c) to reduce or eliminate benefits, may request a hearing before the department under regulations adopted by the department.

Sec. 47.45.350. Ability to recover or recoup improper assistance benefits.

An individual is liable to the department for the value of assistance or benefits improperly paid to the person under AS 47.45.310 or 47.45.320 if the improper payment was based on inaccurate or incomplete information provided by the individual. In a civil action brought by the state to recover from the individual the value of assistance or benefits improperly paid under AS 47.45.310 or 47.45.320, the state may recover from the individual the costs of investigation and prosecution of the civil action, including attorney fees as determined under court rules.

Sec. 47.45.360. Alaska senior care fund. The Alaska senior care fund is established as an account in the general fund. The fund shall be used by the commissioner of health and social services to pay for costs incurred in the provision of senior services under AS 47.45.300 - 47.45.390. The fund consists of

(1) money in the former senior care fund established in sec. 2, ch. 3,
SLA 2004;

(2) appropriations to the Alaska senior care fund; and

(3) any appropriation of interest earned on money in the Alaska senior care fund.

Sec. 47.45.390. Definitions. In AS 47.45.300 - 47.45.390,

(1) "department" means the Department of Health and Social Services;

(2) "eligible individual" means an individual who meets the requirements of AS 47.45.310 or 47.45.320 and regulations adopted under those

1 statutes for eligibility for the program;

2 (3) "family member" means a person who is

3 (A) legally related to an eligible individual through marriage or
4 guardianship; or

5 (B) an eligible individual's sibling, parent, grandparent, son,
6 daughter, grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin;

7 (4) "program" means the senior care program established in
8 AS 47.45.300 - 47.45.390;

9 (5) "public institution" means a governmentally owned establishment
10 that furnishes food, shelter, and some additional treatment or services to 16 or more
11 persons; "public institution" does not include the Alaska Pioneers' Home or Alaska
12 Veterans' Home;

13 (6) "resident" has the meaning given in AS 47.25.430(a).

14 * **Sec. 3.** AS 37.05.146(c) is amended by adding a new paragraph to read:

15 (78) the Alaska senior care fund (AS 47.45.360).

16 * **Sec. 4.** AS 09.38.015(a)(10); AS 37.05.146(c)(78); AS 47.45.300, 47.45.310, 47.45.320,
17 47.45.330, 47.45.340, 47.45.350, 47.45.360, 47.45.390; and secs. 5 - 7 of this Act are repealed
18 on the later of June 30, 2007, or the effective date under sec. 11 of this Act.

19 * **Sec. 5.** Chapter 3, SLA 2004, is repealed.

20 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 TRANSITION: TRANSFER OF ASSETS TO THE ALASKA SENIOR CARE
23 FUND. Subject to appropriation, the assets of the senior care fund created by sec. 2, ch. 3,
24 SLA 2004, are transferred to the Alaska senior care fund (AS 47.45.360) established by sec. 2
25 of this Act.

26 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 TRANSITION: REGULATIONS. (a) To the extent the regulations are not
29 inconsistent with this Act, regulations adopted by the Department of Health and Social
30 Services in 2003 to provide cash assistance of \$120 a month to seniors that were in effect on
31 June 29, 2004, remain applicable and in effect as valid regulations until the Department of

1 Health and Social Services adopts regulations under this Act and those regulations take effect
2 under AS 44.62.

3 (b) The Department of Health and Social Services may proceed to adopt regulations
4 to implement the changes made by this Act. The regulations take effect under AS 44.62
5 (Administrative Procedure Act), but not before the effective date of the statutory changes.

6 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 DUTY OF COMMISSIONER TO NOTIFY REVISOR OF STATUTES. The
9 commissioner of health and social services shall notify the revisor of statutes when 42 U.S.C.
10 1395w-101 - 1395w-152 (Medicare Prescription Drug, Improvement and Modernization Act
11 of 2003) is operational for recipients in this state, as communicated to the commissioner of
12 health and social services by the United States Department of Health and Human Services.

13 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 FUND REVERSION. The unobligated, unencumbered, and unappropriated balance
16 of the Alaska senior care fund established in AS 47.45.360, added by sec. 2 of this Act,
17 reverts to the unreserved general fund on June 30, 2007.

18 * **Sec. 10.** Sections 7(b) and 8 of this Act take effect immediately under AS 01.10.070(c).

19 * **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect on the date that the
20 commissioner of health and social services notifies the revisor of statutes that 42 U.S.C.
21 1395w-101 - 1395w-152 (Medicare Prescription Drug, Improvement and Modernization Act
22 of 2003) is operational for recipients in this state, as communicated to the commissioner of
23 health and social services by the United States Department of Health and Human Services.